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June 23, 2018

Senior District Judge Frederic Block  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: Campbell v. Freshbev LLC, et al.  
1:16-cv-07119-FB-ST

Dear Senior District Judge Frederic Block:

This office represents the plaintiff in the above action. This letter is in response to defendants' Notice of Supplemental Authority in support of its motion to dismiss. ECF 29, 31. Defendants' recent authority relates to "dismissal of all non-resident putative class members' claims for lack of personal jurisdiction." ECF 31-1 at 2, citing *Bristol-Myers Squibb Co. v. Superior Court of California*, 137 S. Ct. 1773 (2017).

Defendants adequately highlight the split of authority and numerous applications of this decision. Nevertheless, the solitary case within this district relying upon *Bristol-Myers* is inapposite to the present facts. *In re Dental Supplies Antitrust Litig.*, 2017 WL 4217115, at \*9 (E.D.N.Y. Sept. 20, 2017) (noting that it would violate due process of a defendant to subject it to jurisdiction in New York based on its limited contacts) citing *Bristol-Myers*, 137 S. Ct. at 1780.

The recent California decision in *Fitzhenry-Russell v. Dr. Pepper Snapple Grp., Inc.*, is more on-point to the facts of this case. No. 17-cv-00564, 2017 WL 4224723 (N.D. Cal. Sept. 22, 2017) (declining to apply the identical argument raised by defendant against a plaintiff purporting to represent a nationwide class and noting that *Bristol-Myers* did not address whether its decision "would also apply to a class action in which a plaintiff injured in the forum State seeks to represent a nationwide class of plaintiffs, not all of whom were injured there." 137 S. Ct. at 1789 n.4 (Sotomayor, J., dissenting).

While plaintiff and defendant surely will have different positions on all aspects of this recent authority, class certification may be a more appropriate juncture to consider this issue. *Greene v. Gerber Products Co.*, 262 F. Supp. 3d 38, at 80 (E.D.N.Y. 2017). Thank you for the attention to this matter.

Respectfully submitted,

/s/ Spencer Sheehan  
Spencer Sheehan

Certificate of Service

I certify that on June 23, 2018, I served the foregoing by electronically filing and/or mailing (first-class mail) same, to the persons or entities indicated below, at their last known address of record (blank where not applicable).

Counsel for Defendants

☒ CM/ECF

☐ First-Class Mail

/s/ Spencer Sheehan  
Spencer Sheehan